



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/152950

PRELIMINARY RECITALS

Pursuant to a petition filed October 17, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on November 14, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly reduced the Petitioner's FS benefits effective November 1, 2013.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Pang Thao Xiong
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On June 27, 2013, the agency issued a Notice of Decision to the Petitioner informing him that the household's monthly FS benefits would decrease from \$53 to \$33 effective November 1, 2013. The Department's sole basis for benefit reduction was imposition of a reduced benefit level due

to a mandatory change ordered by the Secretary of the federal Department of Agriculture. The petitioner's income and allowable FS income deductions for November are unchanged from those used in the October benefit calculation.

3. On October 17, 2013, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

The federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5, section 101) included an appropriation for an across-the-board increase in FoodShare allotments of 13.6% as an economic stimulus measure. The appropriation increase was limited as to time and a rule formulation involving the "thrifty food plan." The federal FS statute, at 7 U.S.C. § 2027, states that the Secretary of the Department of Agriculture shall limit allotments so that they "are not in excess of the appropriation for ...[the fiscal year]." When the Secretary determines that the participants' allotments will exceed the appropriation, the Secretary must direct the states to reduce allotments to align with the appropriation. See, in accord, federal code at 7 C.F.R. § 273.10(e)(4). The Secretary has made that determination, and has announced that the 13.6% increase must expire effective October 31, 2013. That declaration is reflected in a U.S. Department of Agriculture memo, "SNAP – Fiscal Year 2014 Cost-of-Living Adjustments and ARRA Sunset Impact on Allotments," issued August 1, 2013, available online at http://www.fns.usda.gov/snap/rules/Memo/2013/FY_2014_COLA_memo.pdf. See, in accord, state policy at BEPS/DFS Operations Memo, #13-27, September 9, 2013.

The Petitioner testified that the household has out-of-pocket medical expenses that the agency did not consider. The Petitioner had not, as of the time of the hearing, submitted those expenses to the agency. The agency worker explained how and when to submit those expenses and indicated that she will review the medical expense information the Petitioner brought to the hearing. It was explained to the Petitioner that the agency will issue a new determination upon review of any medical expenses and he will have a right to appeal any of those determinations with which he does not agree.

CONCLUSIONS OF LAW

The agency properly determined the Petitioner's FS benefits effective November 1, 2013.

THEREFORE, it is

ORDERED

That the petition be, and hereby is, dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 10th day of December, 2013

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on December 10, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability